

Case No. : C.W.P.No.7027 of 2007

Date of Decision : May 11, 2007

CORAM : HON'BLE MR.JUSTICE J.S.KHEHAR.

HON'BLE MR.JUSTICE L.N.MITTAL.

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Present : Mr.Sanjay Majithia, Advocate
for the petitioner.

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L.N.MITTAL, J. :

The petitioner was inducted into the service of the respondents as Clerk in the year 1977. He was eventually promoted as Senior Assistant on passing of Assistant Grade examination in the year 1989.

The petitioner's grievance is that he is entitled to fixation of his pay in the scale of Rs.5800-10400 with effect from 1.1.1996, whereas he is being given basic pay of Rs.5800 only since the year 2000. The petitioner accordingly claims fixation of his pay in the aforesaid scale.

The petitioner has alleged that respondent no.3 – Deputy Commissioner, Faridkot himself gave scale of Rs.5800-10400 with effect from 1.1.1996, to the petitioner, vide order dated 11.6.2004 (Annexure P-3). However, perusal of the said order reveals that respondent no.3 never granted the said scale to the petitioner. On the other hand, according to the order dated 11.6.2004 (Annexure P-3), the petitioner, while posted as Tehsil

Assistant in Jaito, himself made entry in his service book raising his basic pay from Rs.5800 to Rs.6800 since 15.06.2001 and again on the same date, changed it from Rs.6800 to Rs.8100, without any order of the competent authority. A perusal of the said order also reveals that five annual increments of the petitioner were stopped in the year 1991 and again five increments of the petitioner were stopped in the year 1996 and he was placed on the basic pay scale. However, the petitioner again indulged in grave misconduct by himself making entries in his service book raising his pay from Rs.5800 to Rs.6800 and again from Rs.6800 to Rs.8100, without any order of the competent authority. For this misconduct, respondent no.3 further gave punishment of stoppage of two annual increments of the petitioner permanently. Thus, order dated 11.06.2004, relied on heavily by the petitioner in his pleadings, for grant of relief claimed by him, in fact is seriously against the claim of the petitioner, raised in the instant writ petition.

Learned counsel for the petitioner vehemently contends that respondent no.3, vide order dated 11.06.2004, granted liberty to the petitioner to make representation but when the petitioner made the representation, his pay was not fixed. The argument, in our view, is unacceptable because vide order dated 11.06.2004, the petitioner was given only one week's time for making the requisite representation. However, he has placed on record only representation dated 23.01.2007 (Annexure P-5). This representation was made more than 2-1/2 years after passing of order dated 11.06.2004 vide which the petitioner was given only one week's time to make a representation. In these circumstances, the petitioner cannot avail of any benefit of order dated 11.06.2004, by making representation dated 23.01.2007, as the said representation was not made within the time frame, stipulated in the said order, but was made after a lapse of 2-1/2 years, after expiry of the stipulated time. Counsel for the petitioner, in this context, contended that the petitioner had been making representations even before

he made representation dated 23.01.2007. However, no such representation, made before 23.01.2007, has been placed on the record of this case, nor there is any specific pleading by the petitioner that he made any representation within one week's time, as granted vide order dated 11.06.2004.

The writ petition is also barred by delay and laches. Respondent no.3 passed the order dated 11.06.2004, granting one week's time to the petitioner, to make representation. However the instant writ petition was filed on 09.05.2007 i.e. about three years after the passing of order dated 11.06.2004. The petitioner remained in hibernation for this long period of almost three years, except that he made representation dated 23.01.2007, after more than 2-1/2 years of the passing of the order dated 11.6.2004.

For the reasons recorded herein above, we find no merit in this writ petition and so, the same is accordingly dismissed.

(L.N.MITTAL)
JUDGE

May 11, 2007
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(J.S.KHEHAR)
JUDGE